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Right to food

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the interim report of the Special Rapporteur on the right to food, Hilal Elver, submitted in accordance with Assembly resolution 68/177.

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Interim report of the Special Rapporteur on the right to food

Summary

The present report, submitted in accordance with General Assembly resolution 68/177, constitutes the first report to the General Assembly of the new Special Rapporteur on the right to food. The report sets forth some of the issues the Special Rapporteur intends to focus on during her tenure. In particular she intends to: (a) explore the obstacles faced by those wishing to seek remedy for violations related to the right to food by analysing the current international legal framework and identifying examples of good practice as a means of encouraging States to develop judicial remedies in accordance with the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights; (b) reaffirm the key role played by women in ensuring food security by addressing gender gaps related to equal assets and productive resources; analysing the effect of unpaid care work on women's right to food; and considering the need for mainstreaming gender in all legislative frameworks, programmes and policies related to food security and nutrition; (c) focus on the nutritional dimension of national food policies and development strategies, as a means of promoting access to healthy and nutritious foods and tackling the effects of undernutrition on the most vulnerable, particularly children aged under five; (d) prioritize, as a cross-cutting issue, the relationship between climate change, the right to food and the post-2015 sustainable development agenda; (e) address the need to review international food systems as a means of improving sustainable production and consumption by way of reducing food waste; and (f) consider the impact of protracted conflicts and emergency situations on the right to food.

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I. Introduction

1. The mandate of the Special Rapporteur on the right to food was established by the Commission on Human Rights in resolution 2000/10. In September 2007, the Human Rights Council, in resolution 6/2, reviewed and extended the mandate for three years. In resolution 6/2, the Council instructed the Special Rapporteur to: (a) promote the full realization of the right to food and the adoption of measures at the national, regional and international levels for the realization of the right to food; (b) examine ways and means of overcoming obstacles to the realization of the right to food; (c) continue mainstreaming a gender perspective and take into account an age dimension in the fulfilment of the mandate; (d) submit proposals that could help the realization of Millennium Development Goal 1; (e) present recommendations on possible steps towards achieving progressively the full realization of the right to food; (f) work in close cooperation with all States, intergovernmental and non-governmental organizations, the Committee on Economic, Social and Cultural Rights and other relevant actors to take fully into account the need to promote the effective realization of the right to food for all; and (g) continue participating in and contributing to relevant international conferences and events with the aim of promoting the realization of the right to food. The mandate of the Special Rapporteur was subsequently endorsed by the Council in resolutions 13/4 and 22/9, renewing the mandate for periods of three years.

2. On 8 May 2014, Hilal Elver (Turkey) was appointed by the Human Rights Council as Special Rapporteur on the right to food. She officially assumed her responsibilities as mandate holder on 2 June 2014. The Special Rapporteur wishes to take this opportunity to express her appreciation for the exceptional contribution of her predecessors, Olivier De Schutter (2008-2014) and Jean Ziegler (2000-2008), in advancing the mandate and promoting the realization of the right to adequate food. The Special Rapporteur intends to build on the work of her predecessors and further develop the important networks already established by them.

3. In the present report, her first to the General Assembly in accordance with Assembly resolution 68/177 and Human Rights Council resolution 6/2, the Special Rapporteur will outline some of the priorities she has identified for taking the mandate forward. Given the limited time frame between taking up office on 2 June 2014 and the submission of the present report, the Special Rapporteur notes that the issues identified hereafter are not exhaustive but rather provide a tentative description of her priorities for the mandate.

4. In setting out the mandate of the Special Rapporteur in resolution 6/2, the Human Rights Council encouraged close cooperation with all stakeholders, including non-State actors. Accordingly, during her first month in office, the Special Rapporteur held consultations on a preliminary and informal basis with representatives from the Office of the United Nations High Commissioner for Human Rights (OHCHR), academic experts and representatives of member States and civil society organizations based in Geneva. She also had occasion to meet with representatives from the Food and Agriculture Organization of the United Nations (FAO), including the Director-General, members of the senior management team and members of the team working on the right to food, as well as the Chair of the Committee on World Food Security and members of the Bureau and Advisory Group of the Committee. The Special Rapporteur wishes to express her gratitude to those with whom she met and appreciates their warm welcome. She is encouraged by the

dedication of many States, organizations and individuals working towards the eradication of hunger and the realization of the right to adequate food and she looks forward to cooperating with all stakeholders on issues relevant to her mandate over the coming years.

5. Since the establishment of the mandate in 2000, a number of important issues have been addressed by the Special Rapporteur's predecessors, including the impact of trade agreements, agroecology and alternative farming methods as a means of maintaining access to land. Legal, policy and institutional frameworks related to the right to food have also been analysed, with examples of best practice providing the basis of many of the recommendations made to States in relation to their obligation to protect the right to an adequate diet. The right of vulnerable groups to access adequate food has also been addressed by previous mandate holders, as has the impact of agriculture on climate change.

6. The global food crisis of 2008, which resulted in dramatic increases in food prices worldwide, provided the inaugural backdrop of the mandate of the previous Special Rapporteur. Given the circumstances at the time, when all major food commodities had reached their highest prices in nearly 50 years, he commenced his mandate by exploring the root causes of the crisis and advocated structural measures to prevent a recurrence of any future threats to food security (see A/HRC/9/23 and A/HRC/12/31).

7. While there have been significant developments in a number of countries in response to the crisis, concerns about price volatility remain, with the world economy showing little sign of stabilizing.[1] Indeed there has been a worrisome rise in local food prices in recent years. Additional steps must be taken at the global level to reduce the risk of future food crises resulting from rapid price increases. In this regard, the Special Rapporteur will continue to monitor the situation and urges States, both individually and collectively, to fulfil their legal obligation under human rights law to do their part in ensuring sustainable access to food for people.

II. Overview of the mandate

8. In its general comment No. 12 (1999) on the right to adequate food, the Committee on Economic, Social and Cultural Rights defined the necessary elements required for the right to food (i.e., the possibility either to feed oneself directly from productive land or other natural resources, or to purchase food) as follows: (a) availability; (b) accessibility; and (c) adequacy. Availability relates to the presence of sufficient food on the market to meet population needs. Accessibility refers to both physical and economic access: physical accessibility means that food should be accessible to all persons, including the physically vulnerable, such as children, older persons and persons with a disability; economic accessibility means that food should be affordable without compromising other basic needs, such as education, health care or housing. Adequacy requires that food satisfy dietary needs (factoring in a person's age, living conditions, health, occupation, sex and so on), be safe for human consumption, free of adverse substances, culturally acceptable and nutritious.

[1] Yilmaz Ayküz, "Waving or drowning: developing countries after the financial crisis", South Centre, research paper No. 48, June 2013.

9. At the international level, the right to food is recognized as a distinct and fundamental right in a number of international instruments. It was recognized in article 25 of the Universal Declaration of Human Rights and reaffirmed in the International Covenant on Economic, Social and Cultural Rights (article 11) and, through the right to life, in the International Covenant on Civil and Political Rights. It is also conferred in article 3 of the United Nations Declaration on the Rights of Indigenous Peoples. It is further recognized in the Convention on the Rights of the Child (articles 3, 24, para. 2 (c), and 27), the Convention on the Elimination of All Forms of Discrimination against Women (articles 12, para. 2, and 14) the International Convention on the Elimination of All Forms of Racial Discrimination (article 5 (e)) and the Convention on the Rights of Persons with Disabilities (articles 25 (f) and 28, para. 1).

10. The tenth anniversary of the adoption of the Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security is observed in 2014. The Voluntary Guidelines were developed as a practical tool for States to assist them in implementing their obligations under article 11 of the International Covenant on Economic, Social and Cultural Rights. They build on international law and complement the objectives set out in the Plan of Action of the 1996 World Food Summit. They also provide an additional instrument to accelerate attainment of the Millennium Development Goals and the post-2015 sustainable development goals. While the Voluntary Guidelines do not establish legally binding obligations for States or international organizations, Guideline 7 does, however, provide guidance on strengthening legal frameworks at the domestic level.

11. While there has been considerable legislative and judicial progress in many countries throughout the world since the adoption of the Voluntary Guidelines a decade ago, many challenges remain. In order to ensure the progressive realization of the right to food at the domestic level, it is imperative that constitutional principles and framework laws are established as a means of providing an appropriate institutional structure. The adoption of sectoral legislation will ensure that States adequately address various sectors that impact significantly on levels of food security.

12. It is in this context that the Special Rapporteur believes the international community should look to the future and establish what more can be done to ensure an enabling environment for people to access food in a dignified manner and to establish applicable remedies for those who are unable to do so. In his final report to the Human Rights Council in March 2014, the previous Special Rapporteur highlighted framework laws and national strategies in support of the realization of the right to food, highlighting a number of countries where examples of good practice exist. The Special Rapporteur intends to assess the experience of those countries and will examine the implementation of such laws at the national level, as a means of identifying possible models for other countries.

13. The Special Rapporteur believes that a key focus should now be placed on the implementation of those legal frameworks and policies to promote the right to adequate food for all. The Guidelines illustrate the significant impact of sectoral legislation through three examples: school feeding programmes, subsidies and transfers in cash or in kind for food security, food safety and consumer protection. The Special Rapporteur supports the implementation of such policies and believes

that regional, as well as North-South and South-South cooperation is essential for sharing best practices among States.

14. While in Rome in July 2014, the Special Rapporteur participated in an event organized by FAO to celebrate the tenth anniversary of the Voluntary Guidelines. The event provided her with the opportunity to participate in an interactive dialogue with government representatives, United Nations agencies and civil society in relation to the challenges facing all stakeholders in advancing the human rights approach to the progressive realization of the right to food. Despite institutional and normative developments over the last decade, eradicating hunger and ensuring access to adequate food has not been universally achieved. Frustration and disappointment were articulated by the representatives of both States and civil society at the event in Rome. The Committee on World Food Security will review the first decade of the implementation of the Voluntary Guidelines in October 2014 and States will be invited to comment on progress made, along with remaining challenges. The Special Rapporteur intends to contribute to that process.

III. Vision for the mandate

15. International human rights treaties and customary law principles oblige all States to protect persons living within their national territory, as well as people who are not the subject of any State sovereignty. The interdependence of international and national obligations in relation to human rights is enshrined in articles 22 and 23 of the International Covenant on Economic, Social and Cultural Rights and specifically expressed in article 11, paragraph 2, on the right to food. Moreover, the Human Rights Council, in resolution 7/14, considered that States should make every effort to ensure that their international policies of a political and economic nature, including international trade agreements, do not have a negative impact on the right to food in other countries.

16. It is the responsibility of all States, individually and through international cooperation and through international trade and investment policies and practices, to take the measures necessary to meet the vital food needs of their people, especially of vulnerable groups and households. It is, therefore, important to recognize the interdependency of food aid, trade liberalization in agriculture, intellectual property rights and agribusiness.

17. The Special Rapporteur will examine the impact of climate change and environmental degradation as a growing source of food shortages and food insecurity, particularly in countries that are faced with imminent risks due to economic, geographic and climatic conditions. In this context, she will also address the need to review international food systems, as a means of improving sustainable consumption and reducing food waste. In so doing, the Special Rapporteur will engage with the specific policy recommendations of the post-2015 sustainable development goals concerning the eradication of poverty and hunger, food security and the empowerment of women. The adoption of those goals is currently being negotiated by the United Nations, civil society and the relevant organizations with respect to their precise language.

18. The Special Rapporteur will put an emphasis on the key role played by women in ensuring food security, from production to consumption, by addressing gender gaps related to secure and equal access to assets and productive resources; analyse

the effects of unpaid work on women's right to food; and consider the need for mainstreaming gender concerns in legislative frameworks, programmes and policies related to food security and nutrition.

19. The first five years of a child's life are the most important in terms of human development and focus must be given to encouraging investment in future generations by providing healthy, adequate and nutritious food to young children. Ensuring food security, including a nutritious diet, makes a vital contribution to achieving a healthy society, both physically and mentally. The Special Rapporteur will make every effort to raise global awareness of the right of every child to enjoy the benefits of healthy, nutritious, sustainable food. That goal is especially relevant for societies faced with significant economic and climatic challenges.

20. The priorities identified by the Special Rapporteur are interrelated. It is not possible to develop a successful sustainable policy framework to eradicate hunger and provide adequate and nutritious food accessible to all without considering the specific requirements of women and children. It should be understood that the mandate encompasses issues relating to corporate responsibility with respect to global food policy and practices and linkages between private sector behaviour, food security and the right to food. The Special Rapporteur intends to address those issues in future reports. In so doing, she will coordinate her efforts with the relevant work being done by civil society and non-governmental organizations (NGOs).

IV. Substantive priorities

A. Justiciability of the right to food

21. While the right to food may once have been a controversial "positive" right, it is now enshrined in international law and States are obliged to ensure its progressive realization through ratification of international treaties and the development of supportive domestic and national legislation. However, many countries have failed to develop a judicial culture of recognition in practice, or the necessary legal frameworks required to ensure that the rights enshrined in the International Covenant on Economic, Social and Cultural Rights are justiciable. Accountability at both international and national levels is paramount to ensuring that the right to food and its correlative obligations are being implemented.

22. General comment No. 12 entails three levels of State obligation, including the obligation to respect, protect and fulfil (paras. 14 and 15). The obligation to respect requires States to refrain from adopting measures that prevent access to adequate food; the obligation to protect requires implementation or enforcement of regulations by States to ensure that third parties do not deprive people of their right to access adequate food; and the obligation to fulfil entails proactive steps to facilitate access to food and strengthen food security. Access to justice in relation to the right to food is also provided for in the recommendations in the Voluntary Guidelines that States should enshrine the right to food in their domestic law, including through the constitution, and provide suitable mechanisms for effective redress in the event of violations of the right to food.[2]

[2] See, FAO, "The right to food in practice: implementation at the national level" (2006) and Guidelines 7.1 and 7.2 of the Voluntary Guidelines.

23. Despite the scepticism that persists in a number of States, courts in several countries have been proactive in stepping in to prevent situations in which survival was threatened due to government inaction or inefficiency in realizing the right to food. The majority of cases relate to failures by authorities to provide minimum levels of subsistence for affected individuals or communities.[3] The right to food is now enshrined in the constitutions of more than 20 countries, together with legal provisions that allow for judicial protection by invoking the right to life, respect for human dignity, the right to health, the right to land, respect for ethnic and cultural rights, the right to housing and consumer rights.[4]

24. The entry into force of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights in May 2013, provided an additional remedial mechanism. It reinforces the justiciability of economic, social and cultural rights and places them on an equal footing with civil and political rights. The Optional Protocol is intended to complement rather than replace national legal systems and should not be considered as the principal means of seeking justice. It grants individuals, or groups of individuals under the jurisdiction of a State party, the right to submit communications about alleged violations of any economic, social or cultural right to the Committee on Economic, Social and Cultural Rights. Complaint procedures remind Governments of their responsibility to respect, protect and fulfil the right to adequate food.

25. The Special Rapporteur commends those States that have ratified the Optional Protocol and encourages others to do so as a matter of priority.[5] The Special Rapporteur intends to work closely with civil society to promote ratification and use of the Optional Protocol and bring violations to the attention of the Committee on Economic, Social and Cultural Rights as a means of eradicating hunger and promoting the right to adequate food. The Optional Protocol has the potential to contextualize and operationalize the right to food at international and national levels.

B. Women and the right to food

26. Although traditionally the role of women has been a part of the agenda on the right to food, the Special Rapporteur believes that the empowerment of women and the protection of their rights should be placed at the centre of the policymaking process on the right to food. Specific programmes and policies should be developed to empower women as agents of change. That means ensuring that they are granted equal access to resources, such as land ownership or tenure, water and seeds, and financial and technological assistance. The empowerment of women should not be limited to rural areas, but should also be extended to urban women, women from indigenous communities, those living in refugee camps and undocumented migrants. In the agricultural sector, policies tend to be "gender blind or gender sensitive in

[3] Christophe Golay, "The right to food and access to justice: examples at the national, regional and international levels" (FAO, 2009).

[4] Christian Courtis, "The right to food as a justiciable rights: challenges and strategies", *Revista Internacional de Direito e Cidadania*, No. 1, (June 2008).

[5] As at 16 July 2014, the following countries had ratified the Optional Protocol: Argentina, Belgium, Bolivia (Plurinational State of), Bosnia and Herzegovina, Cabo Verde, Ecuador, El Salvador, Finland, Gabon, Mongolia, Montenegro, Portugal, Slovakia, Spain and Uruguay.

mild ways", failing to address some of the main obstacles women face. Moving towards gender transformative policies will require major additional efforts on the part of States.[6]

27. Patriarchal norms often control the distribution of household resources, including food and income. As such, women and girls are often the last to receive food within the family setting. Such blatant discrimination can have a devastating effect on women's nutrition, which in turn leads to a reduction in learning potential and productivity and increases reproductive and maternal health risks. As a consequence, children are also severely affected. It is increasingly recognized that malnourished women are more likely to give birth to underweight children, resulting in stunting and other nutritional disorders.

28. In general, food and nutrition security policies continue to treat women primarily as mothers, focusing on the nutrition of infants and young children or pregnant women, rather than addressing constraints on women's economic and social participation. Teenage mothers, women without children and women of post-reproductive age with specific nutritional needs are generally not considered within those policies, and this must change.[6]

29. As farm labourers, vendors and unpaid care workers, women are responsible for food preparation and production in many countries and regions throughout the world and play a vital role in food security and nutrition. However, women and girls continue to be disproportionately affected by poverty and malnutrition. Women in rural areas are particularly affected, as female-headed households continue to grow, exceeding 30 per cent in some developing countries, with women owning only 2 per cent of agricultural land and with limited access to productive resources.[7] In many low-income countries, women are the backbone of the rural economy and 79 per cent of economically active women in the least developed countries consider agriculture as their primary source of income. Agrarian land reform legislation often discriminates against women by entitling only men over a certain age to land ownership while women's entitlement only applies in cases where they are household heads.[8] Such discriminatory practices prevent women in many countries from asserting their economic independence and being able to feed themselves and their families.

30. Investing in rural women has been shown to increase productivity significantly and reduce hunger and malnutrition.[8] According to FAO, women are responsible for 50 per cent of world food production, mainly for family consumption. The majority of rural women are "invisible" field workers on family plots. As a result, they have no recognized independent status as farmers and their work is considered as secondary both in the family and in society. In sub-Saharan Africa, only 15 per cent of landholders are women and they account for less than 10 per cent of credit and 7 per cent of extension services. According to estimates, policies that address gender inequalities could, conservatively, increase yields on women's farms by 2.5 to 4 per

[6] Marcela Villarreal, "The impact of gender inequalities on food security: what policies are needed?" paper presented at a colloquium at the University of Toulouse II-Le Mirail, 22-24 May 2012.

[7] FAO, "Women and the right to food, legal and state practice" (2008).

[8] Ibid., "The female face of farming", available from www.fao.org/gender/infographic/en/.

cent.[9] Those statistics emphasize women's key role in agriculture, not only in ensuring the well-being of individuals, families and rural communities, but also in relation to overall economic productivity and sustainable development.

31. Article 14 of the Convention on the All Forms of Elimination of Discrimination against Women should be used as a guiding tool by States. In the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, endorsed by the Committee on World Food Security in May 2012, it is noted that gender equality is at the core of all reform efforts. The Voluntary Tenure Guidelines also contain special provisions for improving gender equality in both formal and customary systems, for instance through amending discriminatory inheritance and property laws. The Special Rapporteur will review State policies with reference to the Guidelines, highlighting examples of good practices that encourage access to land for women and other vulnerable groups.

32. Women in many parts of the world are confronted with other discriminatory policies and societal norms that prevent them from accessing their fundamental right to adequate food and nutrition. Limited access to education and adequate public health care, as well as early marriage and pregnancy, domestic violence and unequal employment opportunities impose restrictions on women's mobility, decision-making power and control over the family income.[10] Migration as a result of natural disasters, climate change and conflict has also had a disproportionate effect on women, particularly those living in rural areas and among the urban poor.

33. There is also a need for the new global development goals to address structural transformation in relation to the existing global systems of power, decision-making and resource-sharing as a means of achieving women's rights and gender equality in relation to food security. That includes enacting policies that recognize and redistribute the unequal and unfair burdens of women and girls in sustaining societal well-being and economies, which are intensified in times of economic and ecological crises.[11]

34. The fact that women are also considered as the primary caregivers, in both rural and urban settings, adds an extra dimension to their responsibilities within the household. While rural women often shoulder the burden of a heavy workload in addition to their care duties, urban poor woman face different challenges relating to assuring adequate food and nutrition for their family. For a range of economic reasons, poor urban women are increasingly relying on less nutritious processed foods. The Special Rapporteur intends to work with relevant stakeholders to address concerns related to the food issues facing different countries as a result of a dietary transition from traditional diets to processed foods high in fat and sugar, including the concerns addressed by her predecessor (see A/HRC/19/59).

[9] Ibid., "FAO at work 2010-2011. Women — key to food security", available from www.fao.org/docrep/014/am719e/am719e00.pdf.

[10] "What works for women: proven approaches for empowering women smallholders and achieving food security", joint NGO publication, 2012, available from http://www.care.org/sites/default/files/documents/CC-2012-What_Works_for_Women.pdf.

[11] Women's Major Group, "Gender equality, women's rights and women's priorities: recommendations for the proposed sustainable development goals and the post-2015 development agenda", September 2013.

35. States must recognize the need to accommodate the specific time and mobility constraints on women, given their role in the "care" economy, while at the same time reconstituting gender roles by adopting a transformative approach to employment and social protection (see A/HRC/22/50). The Special Rapporteur will endeavour to promote greater awareness of the guidance provided by general comments No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights and No. 20 (2009) on non-discrimination in economic, social and cultural rights of the Committee on Economic Social and Cultural Rights, which relate to discriminatory practices against women.

C. Children and the right to food

36. The first five years of life are the most important period of human development, with the first 1,000 days requiring special attention. Ensuring that a child receives adequate nutrition during that window of 1,000 days can have a profound impact on his or her ability to grow. It can also shape the long-term health, stability and prosperity of a society. Stunting, caused by chronic undernutrition early in a child's life, affects some 165 million children around the world. It was estimated that in 2011 more than one in every four children under five years of age in the developing world was stunted. Sub-Saharan Africa and South Asia are the two regions where stunting continues to be highly prevalent, with low-income countries experiencing the highest levels.[12] Undernutrition magnifies the effects of every disease, including measles and malaria, while malnutrition can also be caused by certain illnesses which reduce the ability of the body to convert food into usable nutrients.

37. Despite global efforts to eradicate child deaths due to malnutrition, more than 2 million children under age five die every year as a result of poor nutrition, and many of those deaths are associated with inappropriate feeding practices. Undernutrition among pregnant women in developing countries causes one out of six infants to be born with low birth weight, which is not only a risk factor for neonatal deaths, but may also lead to disability and learning difficulties.[13]

38. Although issues of undernutrition are often framed in terms of disability prevention, good nutrition is also vital for those who already live with a disability. Infants and children with disabilities suffer the same ill-effects of undernutrition as those without: poorer health outcomes; missing or delayed developmental milestones; avoidable secondary impairments; and, in extreme circumstances, premature death. The exclusion of children and adults with disabilities from nutritional outreach efforts on the basis of the incorrect belief that preserving the life of a child or adult with a disability is of lower priority than preserving the life of someone who is not disabled must be addressed by tackling such discriminatory social and cultural norms which advocate this.[14]

[12] UNICEF, *Improving Child Nutrition. The Achievable Imperative for Global Progress*, (United Nations Publication, Sales No. E.13.XX.4).

[13] World Health Organization, *Essential Nutrition Action: Improving Maternal, New-Born, Infant and Young Child Health and Nutrition*, (Geneva, 2013).

[14] Nora Groce and others, "Inclusive nutrition for children and adults with disabilities", *The Lancet Global Health*, vol. 1, No. 4 (October 2013).

39. Maintaining breast-feeding programmes, especially in countries experiencing the HIV epidemic poses a major challenge. The Special Rapporteur intends to coordinate with the United Nations Children's Fund the World Health Organization and other relevant stakeholders to help develop policies for strengthening specific programmes for young children. She also encourages States to fully implement the Global Strategy on Infant and Young Child Feeding, to position breastfeeding as the norm and to respect and promote community-based food sovereignty approaches to complementary feeding. The International Code of Marketing of Breast-milk Substitutes, adopted by the World Health Assembly at its thirty-fourth session in 1981 as a minimum requirement to protect and promote appropriate infant and young child feeding, should also be supplemented by further monitoring and regulation to ensure that companies responsible for the production of baby food follow similar quality control regulations for domestic use to those for export products.

40. In contrast to undernutrition, developed and middle-income countries, as well as the poorest countries of the world, are now faced with rising levels of chronic diseases related to obesity, including heart disease, diabetes and some cancers. Dietary changes associated with urbanization, such as increased consumption of sugars and fats and declining levels of physical activity, are largely to blame. Marketing campaigns employed by the food and beverage industry, targeting children and adolescents, also bear much of the responsibility.

41. A right-to-food approach requires that States fulfil their obligation to ensure that safe, nutritionally adequate and culturally acceptable food is available; they must also respect and protect consumers and promote good nutrition for all. The Voluntary Guidelines, in particular Guidelines 9, on food safety and consumer protection, and 10, on nutrition, can guide States in the establishment and maintenance of effective food and nutrition policies, thereby increasing the protection of the most vulnerable from unsafe food and inadequate diets, while helping to combat overweight and obesity. The Convention on the Rights of the Child indicates that access to adequate nutrition, including family support for optimal feeding practices, is a right that should be supported for every child. The Special Rapporteur believes that increased focus must be placed on mother and child nutrition as the core of a healthy start in life, with the correlation between infant and young child feeding and food security being treated as a priority in all global food and nutrition security programmes and with formal recognition at the international and national level, including in legal frameworks.

D. Climate change and the right to food

42. Climate change, sustainable resource management and food security are now widely considered among the most complex, interdependent and urgent global policy challenges. With average temperatures predicted by the world scientific community to rise by 2-4° C by the end of the century, the ability of entire regions to maintain current levels of agricultural production is being threatened and many of the adverse effects of climate change are now acutely felt. Individuals and communities already in vulnerable situations and at risk of discrimination due to

geography, poverty, gender, age, indigenous or minority status and disability are often disproportionately affected.[15]

43. Climate change is already having a significant impact on approximately 1 billion of the world's poor. In achieving the target set out in Millennium Development Goal 1, poverty rates have been halved, with 700 million fewer people living in extreme poverty in 2010 than in 1990. In the Human Development Report 2013, however, the United Nations Development Programme warns that if environmental degradation continues at the current rate, the gains in poverty reduction will be reversed, plunging over 3 billion people into extreme poverty and hunger. Without the implementation of serious measures to combat climate change, the number of people at risk of hunger is projected to increase by 10-20 per cent by 2050.[16]

44. The most recent report by the Intergovernmental Panel on Climate Change[16] suggests that climate change will "more likely than not" depress crop yields by more than 5 per cent by 2050. In addition, there is increased certainty about the effects of climate volatility on agricultural production and practices, with climate change shocks principally affecting smallholder agriculture, where the absence of crop insurance translates into adversity to risk. The report further acknowledges that climate change will have significant impacts on non-farm rural livelihoods, as well as tending to increase the risk of violent conflict when the availability of food and water is threatened.[17] FAO has noted that climate change affects the four dimensions of food security: availability, accessibility, utilization and food system stability. It will have an impact on human health, livelihood assets, food production and distribution channels, as well as influencing purchasing power and market flows.[18]

45. The threat posed by climate change to fresh water supplies, combined with the overuse of water in agriculture, is having a detrimental impact on food security. The consequent effects on food production are significant, putting the livelihoods of rural communities and the food security of city dwellers at risk. With the global population expected to increase to 9.5 billion by 2050,[19] the world's food calorie production will need to increase by 68 per cent in order to meet growing demand.

46. Climate change is not only impacting on food security but rising carbon dioxide emissions are causing harm to staple food crops, reducing their nutrient content for the 280 million malnourished people in the world.[20] A study by the Harvard School of Public Health estimates that 2 billion people suffer from zinc and

[15] *The Millennium Development Goals Report 2013*, available from www.un.org/millenniumgoals/pdf/report-2013/mdg-report-2013-english.pdf.

[16] Intergovernmental Panel on Climate Change, "Climate change 2014: impacts, adaptation and vulnerability", summary for policymakers of the contribution of Working Group II to the fifth assessment report of the Intergovernmental Panel on Climate Change, available from ipcc-wg2.gov/AR5/images/uploads/WG2AR5_SPM_FINAL.pdf.

[17] Bill Pritchard, Food Security and Climate Change: What Does the 5th IPCC Assessment Report Tell Us? http://sydney.edu.au/environment-institute/blog/food-security/.

[18] FAO, *Climate Change and Food Security: a Framework Document* (2008).

[19] Nikos Alexandratos and Jelle Bruinsma, *World Agriculture towards 2030/2050. The 2012 Revision*, (FAO, 2012).

[20] Economic Commission for Africa background paper, "The cost of hunger in Africa: social and economic impact of child undernutrition in Egypt, Ethiopia, Swaziland and Uganda" (E/ECA/COE/33/9 AU/CAMEF/EXP/9(IX)).

iron deficiencies, resulting in a loss of 63 million lives annually from malnutrition. Africa today has more children with stunted growth than it did 20 years ago, with up to 82 per cent of cases improperly treated. That poses a huge threat to the future of the continent and access to food rich in nutrients has become imperative.

47. The principle of "common but differentiated responsibilities", as specified in article 3 of the United Nations Framework Convention on Climate Change, is one of the innovative principles of international law that allows countries to participate in the responsibilities set out in the Convention to different degrees, depending on their developmental level. That principle should be used to inform future negotiations, especially in relation to countries facing severe threats to food security, while not directly responsible for climate change themselves.

48. In 2008, the Human Rights Council adopted its first resolution on human rights and climate change (resolution 7/23). As a result, OHCHR was requested to conduct an analytical study on the relationship between climate change and human rights (A/HRC/10/61). Subsequently, resolutions 10/4 and 18/22 were adopted in 2009 and 2011, in which the Council emphasized that climate change had a range of negative impacts on the human rights to life, adequate food, the highest attainable standard of health, adequate housing, self-determination, development and safe drinking water and sanitation.

49. International human rights law complements the Convention on Climate Change by emphasizing that international cooperation is a human rights obligation and that its central objective is safeguarding those rights. The Committee on Economic, Social and Cultural Rights notes that the right to adequate food requires the adoption of appropriate economic, environmental and social policies, and that the right to health extends to its underlying determinants, including a healthy environment.[21] Similarly, the OHCHR report on climate change and human rights mentioned above focuses on the direct relationship between the right to adequate food and climate change (paras. 25-30). Previous reports of the mandate holders have documented how extreme climate events are increasingly threatening livelihoods and food security (see, for example, A/HRC/7/5).

50. While it is beyond the scope of the present preliminary report to enter into the current debate on climate change policy, the Special Rapporteur wishes to note that she will focus on the adverse effects of climate change on the effective enjoyment of human rights (and particularly the right to food) as a cross-cutting theme in her mandate, consistent with Human Rights Council resolution 26/27 on human rights and climate change. In particular, the Special Rapporteur will focus on the impact of climate change on the right to food as it affects the most vulnerable groups in society and will analyse the gender dimensions of food security and nutrition in the context of climate change.

E. Global food loss and food waste

51. Approximately 1.3 billion tons, representing almost one third of world total food production for human consumption, is wasted per year. That is equivalent to

[21] See general comment No. 12, para. 4.

more than half of world annual cereal production.[22] Food waste varies significantly by country and region. In developing countries, food waste and losses principally occur during the early stages of the food value chain and can be traced back to constraints on harvesting techniques and deficient storage facilities. In developed countries, however, food is mainly wasted or lost at a later stage in the supply chain, with the behaviour of consumers having a significant impact.[23] In Europe and North America, for example, per capita food loss and waste amounts to 280-300 kg per year, whereas in sub-Saharan Africa and South and South-East Asia it amounts to 120–170 kg per year.[24] Food waste has a considerable environmental impact, with the vast amount of food going to landfills adding to global warming.[25]

52. The High-level Panel of Experts on Food Security and Nutrition of the Committee on World Food Security stresses the importance of reducing food waste.[24] The Special Rapporteur supports the call for the development of global protocols to measure food loss and waste, with due sensitivity to the large number of variables and national specificities, so as to improve the reliability, comparability and transparency of the data.

53. Innovative ideas for tackling food waste are needed. One of the goals established by the Zero Hunger Challenge, launched by the Secretary-General at the United Nations Conference on Sustainable Development, is to achieve zero loss or waste of food by minimizing the losses which occur during storage and transport by retailers and consumers; empowering consumer choice through appropriate labelling; encouraging commitment by producers, retailers and consumers of all nations; and achieving progress through financial incentives, collective pledges, locally relevant technologies and changed behaviour. While the challenge does not rely on legally binding obligations, it offers States an opportunity to review current policies in relation to food waste. Several constructive steps have been taken by some States to reduce food waste, including the Waste and Resources Action Programme sponsored by the Government of the United Kingdom of Great Britain and Northern Ireland that helps individuals, businesses and local authorities to reduce waste and recycle more. The Special Rapporteur plans to examine such examples of good practice and, during her official missions, will assess the degree of food waste in the countries concerned.

F. Right to food in emergency situations and armed conflict

54. The world is currently blighted by a plethora of humanitarian crises and armed conflicts, which are having a devastating impact on the lives of millions of people around the globe. While 19 per cent of the poorest people in the world now live in fragile and conflict-affected places, it is estimated that this will increase to 40 per cent by 2030 if current trends continue.[25] The international community must take greater responsibility for emergency food crises derived from natural or human-

[22] Jenny Gustavsson and others, "Global food losses and food waste: extent, causes and prevention", FAO (2011).

[23] United Nation Environment Programme, *The Environmental Crisis. The Environment's Role in Averting Future Food Crises* (2009).

[24] High-level Panel of Experts on Food Security and Nutrition of the Committee on World Food Security, "Food losses and waste in the context of sustainable food systems" (2014), available from www.fao.org/cfs/cfs-hlpe.

[25] World Bank, "Fragile and conflict-affected situations", issue brief, April 2014.

made disasters, global economic crises, climate change, or as a result of armed conflict.

55. International humanitarian law, which, inter alia, is designed to ensure that civilians and prisoners of war have adequate food and water during armed conflicts, also outlines preventive measures by prohibiting the deliberate starvation of civilians as a method of warfare in situations of both international and internal armed conflict. That prohibition is violated not only when access to food is denied, resulting in death, but also when the population goes hungry as a result of deprivation of food sources or supplies. In accordance with international criminal law, violations of such protection constitute war crimes. Deliberate starvation, whether during times of war or peace, may also constitute genocide or a crime against humanity. Implementation is always controversial in those situations, especially if the combat zone is limited to the territory of a single State. It should be noted that the right to food continues to be protected by international human rights law during times of armed conflict.

56. States are bound by treaties and customary human rights law and could be found legally responsible in the event of the deliberate destruction of international humanitarian aid or intentional blockage of access to food. International humanitarian organizations and NGOs also have a responsibility to distinguish humanitarian food aid in times of war from food aid in periods of peace and they should follow the principles of humanity, neutrality and impartiality in this regard. During her tenure, the Special Rapporteur intends to monitor situations of ongoing conflict and humanitarian crisis, particularly those where populations are experiencing acute vulnerability with respect to food security as a result of a humanitarian emergency or protracted conflict. Those currently experiencing such crises include the Democratic People's Republic of Korea, South Sudan, the Syrian Arab Republic and Gaza, among others.

57. There is a danger that emergency situations resulting from vulnerable livelihood systems (with their multiple underlying causes), such as natural disasters, climate change, violent conflict, occupation and insecurity, could become long-term, chronic crises. Key characteristics of such situations, which are defined by the Committee on World Food Security as "protracted crises" include severe malnutrition, high rates of food insecurity and vulnerable livelihood systems. The Committee is in the process of drafting a framework for action for addressing food insecurity and malnutrition in protracted crises. The Special Rapporteur hopes to contribute to the articulation of the principles for action in the framework and to promote the final document in discussions around the world.

G. Sustainable development goals and the right to food

58. With the Millennium Development Goals reaching their target date in 2015, the international community is currently reflecting on the progress made to date. The establishment of the Goals reflects the most significant collective effort ever made at the international level to tackle extreme poverty and hunger. While significant progress has been made over the past 14 years, much remains to be done. As mentioned above, the international community is discussing the possible successor framework in the form of the sustainable development goals, which are currently under negotiation.

59. The proposed sustainable development goals should adopt a rights-based approach and include mechanisms for establishing a transparent participatory process in decision-making, involving people directly affected by hunger, extreme poverty and injustice. Vulnerable groups, in particular, must be afforded the same rights as others in that process. Efforts must also be made to ensure that accountability mechanisms are in place to allow victims and organizations representing them to hold Governments to account for failure to comply with their international responsibilities in relation to the right to food. Women's equal access to land and resources should also be included, along with specific targets to ensure asset redistribution among different social groups in relation to the use of land, the oceans, credit, technology and intellectual and cultural property.

60. The Global Strategic Framework for Food Security and Nutrition of the Committee on World Food Security must also be used as a key reference tool for the implementation of effective models of governance concerning food, agriculture and nutrition for States, intergovernmental actors and the corporate private sector. Although it is not a legally binding document, it constitutes a commitment for countries to adopt its principles, options and policy base, as suited to their local needs and circumstances. The document includes provision for the rights of women and children in relation to food security and recognizes the central role played by smallholder farmers, agricultural workers, artisanal fisher folk, pastoralists and indigenous peoples. The primacy of food security and nutrition as a basic human right is the primary responsibility of the State and should be given priority over any other government policy.

V. Conclusions and recommendations

61. **The year 2014 is one of reflection for global food policymakers as they take stock of the progress made following the adoption of the Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security a decade ago. The Guidelines have provided a concrete tool with which to evaluate whether the principles set forth in human rights instruments and hortatory principles are having a practical impact on people's lives, especially the most vulnerable. The Special Rapporteur intends to work closely with FAO, the Committee on World Food Security and other relevant stakeholders to evaluate progress made to date, by taking into consideration examples of good practice as a means of promoting the Guidelines.**

62. **In order to advance the implementation of the right to adequate food, renewed political commitment is essential and stakeholders must look to those countries that have made significant progress in adopting policies and legislation in this regard. The post-2015 sustainable development goals should give priority to sustainability and the adoption of a vigorous human rights approach.**

63. **Non-discriminatory access to the resources required for sustainable food production, such as agricultural land, water, seeds, fertilizers and technical knowledge, must also be guaranteed. Support for small-scale family farmers and food producers should be paramount in the adoption of future policies related to food security and food sovereignty. Policy prescriptions that typically**

call for the expansion of industrial-scale agricultural development and ignore the real threats to global food supply (such as biofuel expansion, inadequate investment in climate-resilient agriculture, lagging support for small-scale farmers and women food producers and the massive loss of food to spoilage and waste) must be reconsidered. It is imperative that a human rights-based approach to food security is adopted in order to eliminate hunger and provide access to healthy, nutritious and affordable food for all. In that regard, the Special Rapporteur proposes to adopt a qualitative rather than quantitative approach to the right to food during her mandate, in response to the current challenges facing all States in developing national food policies.

64. The present report outlines some of the priorities identified by the Special Rapporteur as thematic areas of focus for her mandate. In accordance with its annual programme of work, the Special Rapporteur will present a more comprehensive report to the Human Rights Council in March 2015. Her first substantive report will examine one of the thematic issues outlined above in more depth. In the meantime the Special Rapporteur welcomes comments and feedback on the present report and looks forward to working with all stakeholders to advance the discussion on the human rights obligations related to the right to adequate food.